

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE DIET DRUGS (Phentermine/Fenfluramine/ Dexfenfluramine) PRODUCTS LIABILITY LITIGATION

MDL No. 1203

**SHEILA BROWN et al. v. AMERICAN
HOME PRODUCTS CORPORATION**

CIVIL ACTION NO. 99-20593

SANDRA ANDERSON, et al.
(Woodson Intervention)

V.

CIVIL ACTION NO. 02-20138

**AMERICAN HOME PRODUCTS
CORPORATION, et al.**

**WYETH'S MOTION TO ENFORCE THE SETTLEMENT AGREEMENT AND
PRETRIAL ORDER NO. 1415 AS AGAINST PLAINTIFF ALEXES WALKER**

Class Member Alexes Walker a plaintiff in the above-entitled action. Before filing this lawsuit Ms. Walker exercised the “Accelerated Implementation Option” (“AIO”), thereby executing a full release and covenant not to sue. She sued nevertheless. For all the reasons set forth in the accompanying memorandum, Wyeth respectfully moves the Court to enforce the Settlement Agreement and PTO 1415, and dismiss with prejudice all of Alexes Walker’s claims.

RESPECTFULLY SUBMITTED,

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Dated: May 21, 2004

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE DIET DRUGS
(Phentermine/Fenfluramine/
Dexfenfluramine) PRODUCTS
LIABILITY LITIGATION**

MDL No. 1203

**SHEILA BROWN et al. v. AMERICAN
HOME PRODUCTS CORPORATION**

CIVIL ACTION NO. 99-20593

**SANDRA ANDERSON, et al.
(Woodson Intervention)**

V.

CIVIL ACTION NO. 02-20138

**AMERICAN HOME PRODUCTS
CORPORATION, et al.**

**WYETH'S MEMORANDUM IN SUPPORT OF ITS MOTION TO ENFORCE
THE SETTLEMENT AGREEMENT AND PRETRIAL ORDER NO. 1415 AS
AGAINST PLAINTIFF ALEXES WALKER**

Defendant Wyeth moves this Court to dismiss with prejudice the claims of Alexes Walker, a plaintiff in the lawsuit styled *Sandra Anderson, et al. v. AHPC, et al.* C.A. No. 02-20138.

FACTS

Alexes Walker purports to have exercised intermediate opt-out rights ("IOO") and is suing Wyeth in the *Anderson* matter. Her Complaint caption is attached as Exhibit A. Ms. Walker's case is now in the MDL. Ms. Walker is a member of the *Brown* Class and is subject to this Court's jurisdiction. *See* Pretrial Order ("PTO") 1415, at ¶¶ 3, 11.

Alexes Walker's claims are settled pursuant to the Accelerated Implementation Option ("AIO") and she is consequently barred from prosecuting claims against any defendant in the diet drug litigation. She filed her "Pink Form" on February 1, 2001, attached as Exhibit B, and sent it to the Claims Administrators. The Settlement Agreement and PTO 1415 require her dismissal.

ARGUMENT

The explicit terms of Ms. Walker's AIO agreement require dismissal of her claims against Wyeth. By signing the Pink Form Ms. Walker executed a full release and covenant not to sue.

I fully, finally and forever settle and release any and all Settled Claims, including assigned claims, whether known or unknown, asserted or unasserted, regardless of the legal theory, existing now or arising in the future out of or relating to the purchase, use, manufacture, sale, dispensation, distribution, promotion, marketing, clinical investigation, administration, regulatory approval, prescription, ingestion, and labeling of Pondimin® and/or Redux™, alone or in combination with any other substance, including, without limitation, any other drug, dietary supplement, herb, or botanical that I may have against any Released Party.

"Pink Form," at 9. The terms of the AIO agreement – and of the Settlement Agreement – could not be any clearer. Wyeth requested her dismissal but its correspondence has been ignored. The letters sent to Plaintiff's counsel are attached as Exhibit C. There is no legitimate justification for counsel's refusal to dismiss Ms. Walker's claims as required by the plain terms of the Settlement Agreement.

CONCLUSION

For all the reasons set forth herein, Wyeth's Motion to Enforce the Settlement Agreement and Pretrial Order No. 1415 as Against Plaintiff Alexes Walker should be granted.

Respectfully submitted,

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*Attorneys for Defendant
Wyeth*

Dated: May 21, 2004

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)	
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)	
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)	

PRETRIAL ORDER NO. _____

AND NOW, this ____ day of _____, 2004, upon consideration of Wyeth's Motion to Enforce the Settlement Agreement and Pretrial Order No. 1415 as Against Plaintiff Alexes Walker, it is hereby ORDERED that the motion is GRANTED and Plaintiff's claims are DISMISSED with prejudice and without costs to all named Defendants.

BY:

Harvey Bartle, III, J.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2004, a true and correct copy of the foregoing Motion to Enforce the Settlement Agreement and Pretrial Order No. 1415 as Against Plaintiff Alexes Walker was served on all counsel of record in this matter by Federal Express, and all persons to whom service is required under PTO 19 by first-class, United States mail.

Michael A. Rollin
